

500 N. Wakefield Drive
Newark, DE 19714



February 9, 2009

Philip Giudice, Commissioner
Department of Energy Resources
Commonwealth of Massachusetts
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: 225 CMR 14.00 Renewable Energy Portfolio Standard – Class I Emergency Regulations

Dear Commissioner Giudice:

Conectiv Energy Supply, Inc. ("CESI") is pleased to submit its comments on the emergency regulations (225 CMR 16.00) (the "Regulations") issued by the Department of Energy Resources (the "Department") to implement the renewable portfolio standard (RPS Class 1) as provided for in an Act Relative to Green Communities (M.G.L. c. 25A, Section 11F1/2, hereafter the "Act"). CESI appreciates the significant efforts of you and your staff in promulgating the emergency regulations so quickly following passage of the Act.

As you are aware, CESI owns the contractual rights to high-Btu landfill methane gas that can provide environmental and economic benefits to ratepayers in the Commonwealth today. These benefits can be achieved through the transport of landfill methane gas through the interstate natural gas pipeline system to gas-fired generators in Massachusetts.

Newly developed hi-Btu technologies allow for methane gas to be safely collected, measured, transported and verified. Its use at existing or yet to be developed gas-fired power plants would

- displace fossil fuels,
- promote fuel diversity,
- enhance the market for renewable energy certificates, and
- provide significant environmental benefits by encouraging investments that reduce the discharge of methane gas directly into the atmosphere from landfills or as a cleaner alternative to the combustion of methane gas by reciprocating engines located on-site at landfills.

In addition, the availability of CESI's landfill methane gas as eligible fuel would encourage the development of new generating facilities, increase employment in the Commonwealth associated with the construction and operation of these new facilities and generates important new tax revenue for cities and towns.

Our specific comments relate to the restriction on the location of the source of the landfill gas included in the emergency regulations at 225 CMR 14.05. The emergency regulations prohibit the use of landfill methane gas as an eligible fuel transported by common carriers of natural gas except from landfills located in the "ISO New England Control Area or in an adjacent Control Area." This restriction limits eligible landfill methane gas to locations in New England, New York, and in the Hydro Quebec and New Brunswick control areas.

We believe that the legislature clearly did not intend to limit the geographic area of eligible landfill sites to the four control areas referenced in the emergency regulations since the Act provides that "landfill gas" is an eligible fuel without any restriction to a geographic area. Significantly, the legislature imposed no restrictions upon the location of any fuel to be used in generation in the Commonwealth, and the Department's regulations refrain from placing such restrictions on any eligible fuels other than landfill gas. As with the other eligible fuels, it should not matter whether the landfill gas is transported from Connecticut or New York, as provided in the emergency regulations, or from a landfill located in Pennsylvania. Landfills located in PJM are just as relevant to Massachusetts air shed protection and to Massachusetts consumers as those located in New Brunswick or Quebec. Our comments to you dated October 15, 2008 provide further information regarding the innovative new technology used to produce hi-Btu, pipeline quality landfill gas and highlight the significant benefits of its use. We request that these comments be incorporated herein by reference.

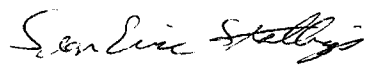
In short, Department's regulations should not encourage the market to continue to pay for more polluting on-site renewable resources given that innovative new technologies have been developed. Placing a geographic restriction on hi-Btu landfill methane gas results in this outcome and unfairly restricts otherwise appropriate market choices. Notably, other jurisdictions that have allowed sites for landfill methane gas beyond the four identified in Massachusetts. Indeed, those jurisdictions determined not only that the market should have the benefit of all available landfill gas technologies but also that additional landfill gas resources would still allow renewable energy certificate prices to remain at competitive levels. In the unlikely event that prices would unexpectedly drop, new policies could evolve to create a carve-out for any technology that would require additional incentives.

Accordingly, we recommend that the geographic restriction on the use of landfill gas as an eligible fuel be revised. In final regulations, Section 14.05 should be expanded to encompass control areas beyond the four designated in the emergency regulations, to include states within the PJM control area. This revision will more accurately preserve the intent of the statute, provide important

environmental benefits, offer an immediate increase in the supply of renewable energy certificates, increase jobs and revenues to the Commonwealth and establish a more equitable treatment among the eligible renewable fuels now and in the future. In addition, PJM is recognized as an important regional player in the development of emerging renewable energy portfolio standards.

With favorable consideration of our comments, ratepayers in the Commonwealth have the opportunity to realize positive benefits with revision of the regulations as we have requested. We are available at the Department's convenience should the Department wish to discuss our comments further.

Sincerely,

A handwritten signature in cursive script, reading "S. Eric Stallings".

S. Eric Stallings
Conectiv Energy Supply, Inc.

cc: Richard A. Kanoff
John C. Citrolo